REMARKS

In response to the final Official Action of March 16, 2006, claim 1 has been amended in a manner which is believed to make clear the operation of the method and that the method is distinguished over the cited art. Claim 17 has also been amended to correct a typographical error. New claim 21 is also presented.

More particularly, referring now to paragraph 3 of the Official Action, it is noted that the Office agrees that the changing of "density" to –consistency-- does not raise the issue of new matter nor does the submission of Figure 4. Applicant notes that the corresponding rejection/objection previously raised by the Office has been withdrawn.

It is further noted that at paragraph 2 of the Official Action, claims 1-7 and 16-20 are rejected under 35 U.S.C. §103(a) for the reasons set forth in the prior Official Action mailed on September 2, 2005.

In the Response to Arguments section, the Office asserts that Schneid et al shows in Figure 4, for example, the same type of pumping system as claimed. Applicant respectfully disagrees. As set forth in Schneid et al at column 3, lines 57-67, Figure 4 shows processing tools 1', 2' as part of a stator and rotor, respectively. The Office asserts that this acts as a wheel and sets forth various definitions of "wheel" at pages 4-5 of the final Action. Firstly, it is noted that Schneid et al does not specifically state that the implement shown in Figure 4 is a wheel or acts as a wheel for pumping pulp. In the Brief Description of Drawings section of Schneid et al, it is stated at column 2, lines 47-48 that Figure 4 is a schematic illustration of another "embodiment of the invention." The invention as set forth in the Summary of the Invention section of Schneid et al states that it is "an apparatus for regulating the dispersion of a highly consistent fibrous substance. At least two processing tools are provided with at least one processing tool being movable relative to the other processing tool" (see Schneid et al column 1, lines 61-65).

In the present invention, a running wheel (7) is disclosed and shown in Figures 1 and 4 and it is explained that as the running wheel revolves, a flow is created and the

pulp is blended in the dilution fluid. It is further explained that the revolving motion also accomplishes the differing pressures between various parts of the device mentioned earlier in the description. It is also stated that the diluted pulp is transferred through flow channels (8) of the running wheel according to the principle presented in Figure 2 to the outlet chamber (9) (see page 5, lines 27-33). Nowhere in Schneid et al is such a running wheel disclosed or suggested.

The assertion that a wheel is the same as a running wheel, is believed to be inappropriate.

In the recent *en banc* decision of the CAFC, Phillips v. AWH Corp., 75 USPQ2D 1321 (CAFC 2005), the Court holds that a person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification (see 75 USPQ2D, 1321, 1326). Particularly, the Court held:

> "We have made clear, moreover, that the ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application" (citations omitted).

Importantly, the person of ordinary skill in the art is deemed to have read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification (see 75 USPQ2D 1321, 1326).

The Court made clear that extrinsic evidence such as dictionary definition of terms are not the primary sources for determining the meaning of terms used in claims, but rather intrinsic evidence and, in particular, the patent claims and specification, is to be looked to initially. Indeed, the claim terms themselves can provide substantial guidance as to the meaning of the particular claim terms (see 75 USPQ2D 1327). As the Court noted in Phillips:

> "To begin with, the context in which a term is used in the asserted claim can be highly instructed. To take a simple example, the claim in this case refers to "steel baffles" which strongly implies that the term "baffle" does not inherently mean objects made of steel. This court's cases provide numerous similar examples in which the use of a term within the claim provides a firm basis for construing the claim. . . Other claims of the patent in question, both asserted and unasserted, can also be valuable sources of enlightenment as to the meaning of a claim term" (citations omitted) (75 USPQ2D 1321, 1327).

Thus, the fact that the word "wheel" may have various dictionary meanings is of secondary importance and, in fact, is not dispositive of the meaning of a claim term unless there is some doubt with respect to that claim term. In the present application, it is respectfully submitted that the term "running wheel" is a term well-known in the pulp processing art and therefore the term as used in the application has a specific meaning. The running wheel is shown and clearly described in the specification.

In view of the foregoing, it is not seen how Schneid et al, and in particular, Figure 4 thereof, discloses or suggests the running wheel as set forth in amended claim 1. In this regard, it is particularly pointed out that claim 1 has been amended to make clear that the running wheel (7) is attached to one of the two conical surfaces (3) and that the running wheel is shaped so as to protrude within an outlet chamber (9) and thereby act as a pump by which the pulp is pumped out of the dispersing device by centrifugal force. No such running wheel is shown or suggested by Schneid et al, including Figure 4.

In particular, the disclosure set forth in Schneid et al does not disclose any mechanism arranged at the outlet end of a rotor. Instead, Schneid et al comprises a ring of teeth (reference number 10 as shown in Figures 1-4 and 8) fixed at the outlet end of the stator part of the dispersing device. With this ring of teeth, it is possible to decelerate the transfer of the pulp from the narrow openings between the blades of the

dispersing device. The ring of teeth is arranged to be movable and situated by the second most radially outward row of teeth (reference number 3 of Figures 1-4 and 8). Also, the second most radially outward row of teeth is supported by the stator part. As shown in Figures 5, 6 and 7 of Schneid et al, another embodiment discloses that the exit of the pulp mass from the narrow openings between the blades of the dispersing device can be correspondingly decelerated with a ring (11) which can be shifted orthogonally to the flow direction and to the second to the last row of teeth (see column 4, lines 2-4) (see generally the description in Schneid et al at column 3, lines 40-56 and column 4, lines 15-29). None of these embodiments disclose or suggest a running wheel as set forth in amended claim 1. It should be noted that the above arguments concerning Schneid et al are in addition to those presented in the amendment mailed on December 2, 2005 and, in particular, at page 8, line 26 through the end of page 9.

In the rejection of claim 1, the Office states at page 6 of the final Official Action that there is motivation for combining Schneid et al with Schneid as set forth in the prior Official action whose arguments are incorporated in the final Official Action. In short, the Office asserts that a conical dispersing device is well-known and it would therefore be obvious to a person of ordinary skill in the art to use a conical dispersing device instead of a cylindrical dispersing device as shown in Schneid et al.

The Office cites Research Corporation v. Nasco Industries, Inc., 501 F2d 358; 182 USPQ 449 (see A 7, *cert. denied*, 184 USPQ 193; 43 USLW 3359 (1974), for the following:

> "[C]hanges of size, shape, without functional significance are not patentable." (emphasis added).

There is no showing made in the final Official Action as to why the conical surfaces are without functional significance as required by Research Corporation. This lack of showing is completely contrary to what is specifically set forth in the patent specification. At page 4, lines 1-6, it is stated:

> "The advantage of a conical dispersing device in regard to a planar dispersing device lies in that the number of blades may be raised 50-150% in relation to a planar dispersing device, whereby the probability of the blade meeting an impurity increases considerably in the efficiency of the dispersing device is improved."

Clearly, this statement in the specification shows that there is a functional difference between a conical and planar dispersing device and, as a result, the reliance upon Research Corporation is believed to be inappropriate.

In summary, it is respectfully submitted that the motivation to combine Schneid et al and Schneid has not been shown, nor even it is shown, is there any disclosure or suggestion in either of these references of the method of dispersing pulp in which conical surfaces with protruding blades are shown that are brought in a rotating movement in relation to one another and characterized in that the dispersing event takes place in a narrow opening (5) between the conical surfaces with the protruding blades (4) at an outlet end (6) of which there is arranged a running wheel (7) attached to one of the two conical surfaces, said running wheel shaped so as to protrude within an outlet chamber (9) and thereby act as a pump by which the pulp is pumped out of the dispersing device by centrifugal force.

For all of these reasons, it is respectfully submitted that amended claim 1 is distinguished over the cited art.

Since claim 1 is believed to be distinguished over the cited art, it is respectfully submitted that claims 2-7 and 16-20 all of which ultimately depend from amended claim 1, are further distinguished over the cited art.

Newly submitted claim 21 particularly points out and claims that the running wheel has at least one flow channel (8) such that pulp is transferred through the flow channel to the outlet chamber. Support for claim 21 is found in original Figures 1 and 2, as well as in the original specification at page 5, lines 31-33. No such flow channel is

shown or suggested in the cited art. In addition, since claim 21 depends from claim 1, it is further distinguished over the cited art.

In view of the foregoing, it is respectfully submitted that the present application as amended is in condition for allowance and such action is earnestly solicited.

The undersigned respectfully submits that no fee is due for filing this Amendment. The Commissioner is hereby authorized to charge to deposit account 23-0442 any fee deficiency required to submit this paper.

Respectfully submitted,

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